

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF OHIO  
3 EASTERN DIVISION

4 -----X

5 IN RE: E. I. DU PONT DE : Case No. 2:13-md-2433  
6 NEMOURS AND COMPANY C8 : Judge Sargus  
7 PERSONAL INJURY LITIGATION : Mag. Judge Deavers

8 ----- :

9 This document relates to: : Case No. 2:18-cv-00136  
10 Angela Swartz and Teddy :  
11 Swartz v. E. I. du Pont :  
12 de Nemours and Company, :

13 -----X

14 Video Deposition

15 of Samuel M. Cohen, M.D.

16 Friday, June 14, 2019

17 taken on behalf of the plaintiff in the  
18 above-entitled cause of action pursuant to notice  
19 and the Federal Rules of Civil Procedure by and  
20 before Janice M. Doud, Registered Professional  
21 Reporter and Notary Public within and for the  
22 State of Iowa, taken at Holiday Inn Express &  
23 Suites, 2010 Abbott Drive, Carter Lake, Iowa  
24 51510, commencing at 12:33 p.m.

25



1 the scientific literature for the C8. I relied  
2 primarily on the C8 panel report, which we have  
3 here, plus the publications by Barry et al. and  
4 by Vieira et al.

5 Q. Well, I'm talking about when you were  
6 weighing the relative risk factors of C8 versus  
7 the other ones, what were you -- what was it  
8 about C8 that made it less of a risk factor for  
9 you?

10 A. According to the scientific panel and  
11 these other publications, the average increased  
12 risk from C8 for kidney cancer is approximately  
13 10 percent. Her exposure is below the average,  
14 so her increased risk would be anticipated to be  
15 less than that 10 percent, so that's what I went  
16 on.

17 Q. So is -- So in looking at Ms. Swartz  
18 particularly, did you factor in her -- the dose  
19 of her C8 level in discounting whether or not it  
20 was a substantial contributing cause to her  
21 cancer?

22 MR. MACE: Objection to form. You  
23 can answer.

24 A. I factored in her blood level that was  
25 taken I believe 2006, if I'm right, which placed



1 her at the low end of the C8 class of members  
2 for her overall blood level, which would put her  
3 below the mean for the overall risk.

4 Q. And you understand that this probable  
5 link finding doesn't talk anything about quartiles  
6 or means about who has a substantial contributing  
7 cause?

8 A. Correct.

9 MR. MACE: Objection to form,  
10 objection to characterization of a document.

11 Q. Well, it doesn't state anything about  
12 quartiles or means or --

13 A. And I'm not --

14 Q. -- or blood levels.

15 A. I'm not relying on quartiles and things.  
16 All I can do is, on the information provided in  
17 C8, is they show a graph showing the increased  
18 risk with blood levels. In Vieira and Barry they  
19 also provide information and that she was at the  
20 low end of the overall exposure and the mean.

21 Q. What blood level would or what dose  
22 would Ms. Swartz have to have before you would  
23 be willing to rule it in as a substantial  
24 contributing cause?

25 MR. MACE: Objection to form,



1 her renal cell carcinoma even without her C8 --  
2 even without her exposure to C8. Is that your  
3 opinion?

4 A. Yes.

5 Q. And so the basis of your opinion that  
6 she would have got -- that she would have gotten  
7 the renal cell carcinoma even without the exposure  
8 to C8 is because of her quoting you relatively low  
9 exposures to C8.

10 A. Correct.

11 Q. And when you say her relatively low  
12 exposures to C8, what are you referencing?

13 A. I'm referencing her blood level and where  
14 that fits into the overall distribution of blood  
15 levels of the C8 members.

16 Q. So you're saying that -- I just -- I  
17 just want to make sure I'm clear on it, that  
18 the C8 dose level that she has, that Ms. Swartz  
19 had was so low, in your opinion, that the -- her  
20 history of obesity and hypertension trumped it.

21 MR. MACE: Objection to form.

22 A. Yeah, I'm not sure what you mean by  
23 "trumped it," but basically her obesity and  
24 hypertension were so much greater risks to her  
25 developing kidney cancer that the contribution



1 from C8 would not have impacted the overall  
2 risk.

3 Q. Right. And the contribution to C8 is  
4 based upon her -- your opinion was that her dose  
5 level was -- was too low.

6 MR. MACE: Objection to form.  
7 Objection to the form.

8 Q. I guess let me ask you this: I'm trying  
9 to -- I understand your arguments about obesity  
10 and hypertension. Okay?

11 A. Okay.

12 Q. I disagree with them, but I understand  
13 where you're coming from, and you've been  
14 questioned on this a bunch of times; right? I  
15 promised before we weren't going to try to rehash  
16 all the same time; and I also want Damond to get  
17 his plane, if I can. The -- We've all been there.

18 The -- But I'm trying to figure out  
19 how you're comparing -- I just want to make sure  
20 that we're clear on what your testimony is. Okay?

21 A. Okay.

22 Q. So, again, your testimony is that her --  
23 that her level of obesity and hypertension, as  
24 you perceive it from the records, is a greater  
25 risk of her getting kidney cancer than the C8



1 because of the dose level of C8 that she had.

2 A. The amount of -- Her risk from obesity  
3 and hypertension would be much greater than her  
4 risk from her exposure to C8 at that dose level.

5 Q. And because of her dose level of C8, that  
6 you were able to rule that out as the substantial --

7 MR. MACE: Objection.

8 Q. -- contributing factor of her developing  
9 kidney cancer.

10 A. I did not rule it out as a possible risk  
11 factor, a causative risk factor.

12 Q. That's not my question.

13 A. What I said is that I don't think that  
14 it was the specific cause of her -- it was not  
15 enough of a cause that -- she probably would  
16 have gotten kidney cancer even if she hadn't  
17 been exposed to that level of C8.

18 Q. Right. And your testimony is she would  
19 have had to have been exposed to a higher level of  
20 C8 in order for it to be the specific causative  
21 factor in her case.

22 MR. MACE: Objection to form.

23 Q. I'm trying to ask you the other way.  
24 You're saying that the amount that she has isn't  
25 enough.



1 A. Right.

2 MR. MACE: Objection.

3 Q. Right? And that's your testimony?

4 A. Right.

5 Q. The amount of exposure that she had to  
6 C8 is not enough.

7 MR. MACE: Compared to, he said.

8 A. Compared -- Compared to her hypertension --

9 MR. MACE: Mischaracterization.

10 A. -- and obesity.

11 MR. CONLIN: Striking -- Striking  
12 Mr. Mace's testimony.

13 A. Okay, compared to. As I've now said a  
14 number of times, compared to the risk that she has  
15 from her obesity and hypertension, the risk that  
16 she has from C8 is not a significant contributor  
17 to her kidney cancer.

18 Q. And you haven't found a single plaintiff's  
19 level sufficient for C8 to be a causative factor  
20 for them.

21 A. Okay. Based on what I was told to  
22 assume for this specific case, that C8 can be a  
23 causative factor for renal cell carcinoma, is this  
24 is the determination I've made for Ms. Swartz  
25 directly. It's unrelated to the evaluations that



1 can answer.

2 A. Yes.

3 Q. And your comparison of those, of those  
4 risk factors, is solely based -- of those other  
5 risk factors to C8 is solely based upon the low  
6 exposure dose level of her C8.

7 A. No, it's based on the overall assessment  
8 of the risk from those -- from obesity and  
9 hypertension itself compared to the C8 report and  
10 her distribution -- her place in the distribution  
11 of that blood level.

12 Q. So based upon her dose level.

13 MR. MACE: Objection to form.

14 A. As part of the overall evaluation. You  
15 have to put that in perspective with her obesity  
16 and hypertension.

17 Q. Fair enough. So what you're doing is  
18 you're looking at Ms. Swartz's dose level in  
19 comparative -- in comparison to where it falls  
20 against all the other dose levels within that  
21 class.

22 MR. MACE: Objection to form.

23 A. The distribution of the dose levels and  
24 also what the C8 points out with regard to the  
25 exposures in the general population and in the



1 workers' population.

2 Q. Right. That's fine. But I'm saying  
3 that when you sit there and you say her dose  
4 level is too low, you're saying that --

5 MR. MACE: Objection.

6 Q. Well, when you say that her relatively  
7 low exposure to C8, quote, is that, it's based  
8 upon where her dose falls within the whole scope  
9 of the Leach class.

10 A. Correct.

11 I'm a bit confused on the question,  
12 but let me explicitly state what I'm saying is  
13 that I think she's at the low end of the Leach  
14 class members, and so her overall risk would be at  
15 the low end of the C8 class; and compared to the  
16 risk that she has from hypertension and obesity,  
17 it would be very small.

18 Q. But you agree that it is more likely than  
19 not that for Ms. Swartz a connection exists between  
20 her PFOA exposure and her kidney cancer.

21 MR. MACE: Objection to form,  
22 objection to having him try to interpret words of  
23 an agreement, beyond the scope.

24 MR. CONLIN: I'm not asking him to  
25 interpret anything. I'm asking him --



1     which was 16 point something, which was at the  
2     low end of the scale.

3           Q.     Again, so her -- when you say her  
4     relatively low exposure to C8, you're talking  
5     about her blood serum level as it relates to the  
6     other individuals and the other class members.

7           A.     Other individuals in the class, other --

8           Q.     Right.

9           A.     -- workers and the general population.

10          Q.     Right. And so it was her blood serum  
11     level is -- was the basis for you saying that it  
12     was a relatively low exposure level to C8.

13          A.     Yes.

14          Q.     And that was the basis for you doing  
15     your relative comparison to obesity and  
16     hypertension and determining that those were  
17     more probable for her diagnosis.

18                   MR. MACE: Objection to form,  
19     incomplete.

20          A.     Yes.

21          Q.     And, lastly, though, that -- And you don't  
22     believe that for hypertension that it's -- that it  
23     has to be uncontrolled, longstanding hypertension  
24     for it to be an increased risk factor.

25          A.     Most of the papers that I've seen look